## **United States District Court**

#### for

# **District of New Jersey**

# Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Nelson Perez

Docket Number: 07-00585-001

Name of Sentencing Judicial Officer: The Honorable William H. Walls, U.S.D.J.

**Date of Original Sentence:** 11/16/2006

Original Offense: Count V: Use of Counterfeit Access Device with Intent to Defraud

Count VI: Possession of at Least 15 or more Counterfeit Access Devices

Original Sentence: 12 months and one day imprisonment; 2 years supervised release.

Type of Supervision: supervised release

**Date Supervision Commenced:** 4/19/2007

Assistant U.S. Attorney: To be assigned, 970 Broad Street, Room 502, Newark, New Jersey 07102,

(973) 645-2700

**Defense Attorney:** To be assigned, 972 Broad Street, 2<sup>nd</sup> Floor, Newark, New Jersey 07102, (973) 645-6347

## PETITIONING THE COURT

[X] To issue a warrant

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The probation office alleges that the offender has violated the following condition(s) of supervision:

## <u>Violation Number</u> <u>Nature of Noncompliance</u>

The offender has violated the supervision condition which states 'The defendant shall reside for a period of 4 months in a community corrections center, halfway house or similar residential facility and shall observe all the rules of that facility. The defendant shall not be eligible for weekend privileges. The defendant shall pay subsistence as required by the program.'

On February 28, 2008, Perez's four month period of confinement at the Toler House Community Education Center commenced. On March 28, 2008, Perez was unsatisfactorily discharged from that program for his failure to follow the program's rules and regulations.

The offender has violated the supervision condition which states 'The defendant shall refrain from the illegal possession and/or use of drugs and shall submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that the defendant shall submit to drug treatment, on an outpatient or inpatient basis, as directed by the U.S. Probation Office. The defendant shall abide by the rules of any program and shall remain in treatment until

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	satisfactorily discharged with the approval of the U.S. Probation Office.'
	Perez has failed to participate in drug treatment and failed to participate in the Code-A-Phone urine monitoring program.
3	The offender has violated the supervision condition which states 'You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.'
	On May 14, 2007; November 30, 2007; January 24, 2008; February 29, 2008; and March 7, 2008; respectively, the offender submitted urine specimens which all subsequently tested positive for opiates (heroin).
4	The offender has violated the supervision condition which states 'You shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month.'
	The offender has not submitted any <i>Monthly Supervision Reports</i> (M.S.R.s) since November 2007.
5	The offender has violated the supervision condition which states 'As a condition of supervision, you are instructed to pay restitution in the amount of \$3,165.98 to Discover Financial Services; it shall be paid in the following manner: In full immediately.'
	The offender has not made any payments towards his restitution obligation.

I	declare under penalty of perjury that the foregoing is true and correct  By: Paul E. Choinski  U.S. Probation Officer  Date: 1968
THE COURT ORDERS:	
[ V The Issuance of a Warrant	
[ ] The Issuance of a Summons. I	Date of Hearing:
[ ] No Action [ ] Other	
	Signature of Judicial Officer
	4 mue unt
	Date

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PROBATION OFFICE
DISTRICT OF NEW JERSEY

CHRISTOPHER MALONEY
CHIEF PROBATION OFFICER

WILFREDO TORRES SENIOR DEPUTY CHIEF PROBATION OFFICER

DEPUTY CHIEF PROBATION OFFICERS
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May 19, 2008

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The Honorable William H. Walls, U.S.D.J. Martin Luther King, Jr. Federal Building & U.S. Courthouse 50 Walnut Street, Room 2564 P.O. Box 999 Newark, New Jersey 07102-0999

> RE: U.S. v. Nelson Perez Dkt. No.: 07-00585-001

Request for Violation of Supervised Release Hearing & Issuance of Warrant

Dear Judge Walls:

On November 16, 2006, Nelson Perez was sentenced in the Northern District of Indiana by the Honorable James T. Moody, U.S. District Judge, to concurrent 12 month and one day terms of imprisonment for separate counts of use of counterfeit access device and possession of 15 or more counterfeit access devices. Judge Moody ordered Perez to serve a two year period of supervised release, pay \$3,165.98 in restitution, and abide by the special conditions of full financial disclosure, substance abuse treatment/urinalysis and no new debt/lines of credit. On April 19, 2007, Perez was released from the custody of the Bureau of Prisons and his period of federal supervision commenced. Inasmuch as Perez resides in Newark, New Jersey, supervision was assumed by this probation office with a transfer of jurisdiction following shortly thereafter.

The purpose of this letter is to advise the Court of Perez's continued non-compliance with the conditions of his supervision since our last report to the Court dated December 15, 2007. As Your Honor is aware, in that correspondence, the probation office alleged that Perez violated several conditions of his supervision and petitioned the Court to modify the conditions of Perez's supervised release to include a sanction of four months community confinement at the Toler House Community Education Center. On January 3, 2008, based upon a review of the probation office's notification and request, Your Honor agreed with the probation office's recommendation and signed a Probation Form 12B authorizing the modification.

Despite being afforded the benefit of community confinement, we allege that Perez continues to violate the conditions of his supervision and recommend a warrant be issued. According to the information received from Toler House staff on February 28, 2008, Perez's four month period of confinement at the community corrections center commenced, however, on March 28, 2008, he was unsatisfactorily discharged for his failure to follow the program's rules and regulations.

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In addition to the violation noted above, we allege that Perez has failed to submit *Monthly Supervision Reports*; has failed to follow probation's directives, has failed to pay his court imposed financial obligations; has tested positive for drug and alcohol use; and has failed to participate in both drug treatment and the probation office's mandatory urine monitoring program (Code-A-Phone).

The foregoing evidence of ongoing non-compliant behavior demonstrates Perez's complete disregard for the conditions of his supervision and the authority of the Court. Therefore, given the facts of this case, and taking into consideration it appears that a violation hearing is warranted at this time. Please review the enclosed documents related to the alleged violations. In view of the cited instance of non-compliance, it is recommended that Your Honor issue a warrant so that Perez can be brought before the Court to answer these charges and show cause why he should not be considered in violation of his term of supervised release. If Your Honor concurs with our recommendation, please sign the enclosed Probation Form 12C. If Your Honor requests an alternative course of action, please advise. We will make ourselves available should Your Honor wish to discuss this matter.

Respectfully submitted,

CHRISTOPHER MALONEY, Chief

U.S. Probation Officer

By: Paul E. Choinski U.S. Probation Officer

Enclosure(s)